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By E-Mail

Hon. Denise L. Cote

MEMO ENDORSED

United States District Judge,

Daniel Patrick Moynihan United States Courthouse,
500 Pearl Street, Room 1610,
New York, New York 10007-1312.

Re: FHFA Actions, Nos. 11-cv-6189, et al., (S.D.N.Y.) (DLC)

Dear Judge Cote:

I write on behalf of Defendants in the above-captioned cases, pursuant to the Court's order of April 23, 2014 (No. 11-cv-6189, ECF No. 666), and in response to FHFA's letter of April 22, 2014, which proposed a coordinated, truncated briefing schedule for FHFA's motion for summary judgment filed that day. The parties have met and conferred; they have reached agreement as to the page limits for responsive and reply briefs but are at impasse regarding the time for Defendants to respond.

FHFA's proposal—that Defendants be afforded only five weeks to file one coordinated opposition brief to its recently filed summary judgment motion, while allowing three full weeks for FHFA's reply—stands in contrast to the existing Court-ordered schedules regarding summary judgment. The Court's schedules permit Defendants to address summary judgment motions from FHFA on a carefully staggered basis. In certain cases—such as for Goldman Sachs—it permits a full seven weeks for opposition briefs. (See Stipulation & Order Regarding Revised Pretrial Schedule for Tranche 3, *FHFA v. Goldman, Sachs & Co.*, No. 11-cv-6198, ECF No. 494 (Sept. 25, 2013).)

The need for a full six weeks to respond is all the more crucial given the issue on which FHFA has unexpectedly sought early summary judgment. The GSEs' knowledge of the purported misstatements is a crucial defense to both FHFA's federal securities claims and its common law fraud claims, and for that reason briefing will require additional coordination and consultation among Defendants. Defendants' oppositions will collect and analyze the complex factual record that has developed surrounding this defense, including the testimony of numerous witnesses, and the documents produced by FHFA, which Your Honor has characterized as "voluminous." (Memorandum Opinion & Order at 13, *FHFA v. Goldman, Sachs & Co.*, No. 11-cv-6198, ECF No. 493 (Sept. 25, 2013).)

As to page limits, the parties now have agreed that Defendants shall be permitted to file a joint brief of up to 35 pages and additional case-specific briefs for each Defendant group of up to 15 pages in each case, and that FHFA will be permitted a reply brief of up to 40 pages in length.

Defendants respectfully request that the Court endorse the parties' agreed-upon page limits and Defendants' request for the following briefing schedule:

- Defendants' opposition briefs due Tuesday, June 2, 2014;
- FHFA's reply brief due Tuesday, June 23, 2014.

April 25, 2014

4/28/2014

Hon. Denise L. Cote

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Respectfully Submitted,

Richard H. Klapper/wrk
Richard H. Klapper

cc: Counsel of Record